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| APPLICATION NO.          | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--------------------------|-------------|----------------------|---------------------|------------------|
| 10/771,083               | 02/03/2004  | Rudolf J. Hofmeister | 15436.171.I         | 1066             |
| 22913                    | 7590        | 09/05/2007           | EXAMINER            |                  |
| WORKMAN NYDEGGER         |             |                      | LE, TOAN M          |                  |
| 60 EAST SOUTH TEMPLE     |             |                      | ART UNIT            | PAPER NUMBER     |
| 1000 EAGLE GATE TOWER    |             |                      | 2863                |                  |
| SALT LAKE CITY, UT 84111 |             |                      |                     |                  |
| MAIL DATE                |             | DELIVERY MODE        |                     |                  |
| 09/05/2007               |             | PAPER                |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/771,083             | HOFMEISTER ET AL.   |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Toan M. Le             | 2863                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 June 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 4-15,22,23,26-28 and 30-40 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 4-15,22,23,26,28 and 30-40 is/are allowed.
- 6) Claim(s) 27 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 03 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 27 is rejected under 35 U.S.C. 102(e) as being anticipated by Chieng et al. (US Patent No. 6,862,302).

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Referring to claim 27, Chieng et al. disclose a transceiver module comprising:  
a laser diode, wherein the laser diode comprises a vertical cavity surface emitting laser (VCSEL) (col. 3, lines 66-67 to col. 4, lines 1-8; col. 15, lines 64-67 to col. 16, lines 35-41; col. 19, lines 30-46; col. 20, lines 32-44);  
a laser driver coupled to the laser diode (col. 5, lines 6-23);  
a microprocessor coupled to the laser driver (col. 5, lines 6-23);

memory coupled to the microprocessor, the memory comprising a reference operating characteristic of the laser diode (col. 4, lines 14-48); and

wherein the microprocessor is adapted to collect periodic operating characteristics of the laser diode and to compare the periodic operating characteristics of the laser diode to the reference operating characteristics of the laser diode (col. 5, lines 24-35; col. 6, lines 7-16 and lines 34-65).

***Allowable Subject Matter***

Claims 4-15, 22-23, 26, 28, and 30-40 are allowed.

The reason for allowance of claim 4 is the inclusion of the microprocessor adapted to collect periodic operating characteristics of the laser diode and to compare the periodic operating characteristics of the laser diode to the reference operating characteristics of the laser diode stored the memory, wherein the laser diode and laser driver are arranged such that the laser driver can bias the laser diode through two alternate paths, wherein one of the paths includes a pair of switches arranged to enable selective coupling of the laser driver to the laser diode.

The reason for allowance of claims 11, 28, and 30 is the inclusion of a laser diode, which is a vertical cavity surface emitting laser (VCSEL) and storing the collected operating characteristics of the laser diode as reference a cubic spline/quadratic spline coefficients to the memory for the comparing step.

The reason for allowance of claims 5-10/22-23/26; 12-15; 37-40; and 31-36 is they depend on allowable claims 4; 11; 28; and 30, respectively.

***Response to Arguments***

Applicant's arguments with respect to claims 4-15, 22-23, 26-28, and 30-40 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan M. Le whose telephone number is (571) 272-2276. The examiner can normally be reached on Monday through Friday from 9:00 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Toan Le

August 29, 2007



John Barlow  
Supervisory Patent Examiner  
Technology Center 2800